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## A BILL FOR AN ACT

RELATING TO THE RIGHT OF FIRST REFUSAL FOR THE DISPOSITION OF  
REMNANTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the vast majority of  
2 Hawaii's public lands have a complex history as unlawfully  
3 seized and ceded former national and crown lands of the Hawaiian  
4 Kingdom. As the legislature recently reaffirmed in House  
5 Concurrent Resolution No. 6, S.D. 1 (2013), after the illegal  
6 overthrow of the sovereign Kingdom of Hawaii, "one million eight  
7 hundred thousand acres of crown and government lands were . . .  
8 ceded to the United States without consent or compensation to  
9 the Native Hawaiian people or their sovereign government[.]"  
10 The legislature further recognized that "the Native Hawaiian  
11 people never relinquished their claims to . . . their national  
12 lands throughout the overthrow, occupation, annexation, and  
13 admission of Hawai'i into the United States[.]" Given this  
14 history, as well as the continuing cultural, social, and  
15 economic significance of the 'āina to Native Hawaiians and the  
16 people of Hawai'i nei, important procedural safeguards now exist



1 to ensure that any sales of public lands held by the State occur  
2 only in the most exigent and appropriate of circumstances.

3 One such safeguard was created through the enactment of Act  
4 176, Session Laws of Hawaii 2009. Act 176, which settled a  
5 decade-long lawsuit brought by the office of Hawaiian affairs to  
6 stop the sale of public, ceded lands, established a  
7 comprehensive, accountable, and transparent process for the  
8 disposition of nearly all public lands. The Act further  
9 required the prior approval of a super-majority of the  
10 legislature, "before most state-owned land [can] be sold[.]"

11 However, a purportedly narrow exception to Act 176's  
12 procedural safeguards exists for lands that qualify as remnant  
13 lands under section 171-52, Hawaii Revised Statutes. Unlike  
14 other public lands, lands found to qualify as remnants may be  
15 disposed of without legislative approval, and without the  
16 procedural steps that would otherwise ensure the level of  
17 transparency and accountability deemed appropriate by the  
18 legislature.

19 Recently, uncharacteristically broad interpretations of the  
20 statutory definition of remnants have led to the disposal of  
21 significant parcels of public lands, including public land trust



1 lands and ceded lands, without legislative approval or the  
2 procedural requirements of Act 176. The dispositions have  
3 raised significant concerns for the legislature, the Native  
4 Hawaiian community, and the general public.

5 The legislature finds that the complex history of Hawaii's  
6 public lands, the State's moral and legal responsibility to  
7 maintain these lands in trust for both the Native Hawaiian  
8 people and the general public, and the need to ensure some level  
9 of accountability and transparency in the permanent alienation  
10 of any public and potentially ceded lands, all counsel creating  
11 an additional safeguard against the inappropriate disposal of  
12 lands deemed to be remnants by the State. Given the  
13 constitutional responsibility of the office of Hawaiian affairs  
14 to hold property in trust for Native Hawaiians, granting the  
15 office of Hawaiian affairs a right of first refusal to any  
16 contemplated disposition of remnant lands would constitute such  
17 a suitable safeguard.

18 Accordingly, the purpose of this Act is to give the office  
19 of Hawaiian affairs the right of first refusal for any  
20 disposition of public lands classified as remnants under section  
21 171-52, Hawaii Revised Statutes.



1 SECTION 2. Section 171-52, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:  
3 "(c) Disposition. Remnants or portions thereof may be  
4 disposed of by the board of land and natural resources without  
5 recourse to public auction in the manner set forth herein. Any  
6 remnant or portion thereof to be disposed of shall be first  
7 offered for sale to the office of Hawaiian affairs at a  
8 reasonable price based on appraised value. The remnant or  
9 portion thereof shall be offered to the office of Hawaiian  
10 affairs for a reasonable amount of time prior to offering the  
11 remnant for sale to any other person or entity; provided that if  
12 the office of Hawaiian affairs elects to purchase the remnant,  
13 any abutting landowner whose access to a street requires an  
14 easement across the remnant shall be offered such an easement  
15 for a reasonable amount of time and for a reasonable price based  
16 on appraised value, with the price of the remnant to be sold to  
17 the office of Hawaiian affairs reduced accordingly. If the  
18 office of Hawaiian affairs declines to purchase the remnant or  
19 portion thereof to be disposed, the remnant or portion thereof  
20 may then be offered for sale to the abutting owner for a  
21 reasonable period of time at a reasonable price based on



1 appraised value. [~~In the event that~~] If one abutting landowner  
2 lacks access to a street, and [~~such~~] access can be secured by  
3 disposition of the remnant, [~~such~~] the remnant shall be first  
4 offered for sale to [~~such~~] the abutting owner, or subdivided so  
5 as to protect the access of all abutting landowners. If there  
6 is more than one abutting owner who is interested in purchasing  
7 the remnant, it shall be sold to the one submitting a sealed bid  
8 containing the highest offer above the appraised value. If the  
9 remnant abuts more than one parcel, the board may subdivide the  
10 remnant so that a portion thereof may be sold to each abutting  
11 owner at the appraised value; provided that no remnant shall be  
12 sold to any abutting owner unless the remnant, when combined or  
13 consolidated with the abutting property, shall constitute a lot  
14 acceptable to the appropriate agency of the county in which the  
15 remnant lies; and provided further that appropriate language  
16 shall be included in any document of conveyance of [~~such~~] the  
17 remnant to assure use of the remnant in accordance with the  
18 applicable ordinances, rules, and regulations of the county  
19 concerned."

20 SECTION 3. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

[Signature]

Linda Dominguez

Cindy Evans

Sony McArthur

[Signature]

[Signature]

Mark J. Hall

[Signature]

Clinton Boy

Richard [Signature]

Sean [Signature]

JAN 23 2017



# H.B. NO. 908

**Report Title:**

Disposition of Remnants; Right of First Refusal

**Description:**

Provides the office of Hawaiian affairs with the right of first refusal for any disposition of public lands classified as remnants.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

